

J. Y. Interpretation No.418 (December 20, 1996) *

ISSUE: Does Article 87 of the Act Governing the Punishment for Violation of Road Traffic Regulations preventing the offender from appealing the High Court's ruling to the Supreme Court deprive him of his right to institute legal proceeding, thus violating Article 16 of the Constitution?

RELEVANT LAWS:

Article 16 of the Constitution (憲法第十六條) ; Articles 8 and 87 of the Act Governing the Punishment for Violation of Road Traffic Regulations (道路交通管理處罰條例第八條、第八十七條) .

KEYWORDS:

right to bring lawsuits (訴訟權) , judicial relief (司法救濟) , judicial beneficiary right (司法受益權) , due process of law (正當法律程序) , administrative relief (行政救濟) .**

HOLDING: Article 16 of the Constitution guarantees the people the right to bring a lawsuit and the intent is to ensure that the people have the right to initiate lawsuits in accordance with the

解釋文：憲法第十六條保障人民有訴訟之權，旨在確保人民有依法定程序提起訴訟及受公平審判之權利。至於訴訟救濟，究應循普通訴訟程序抑依行政訴訟程序為之，則由立法機關依職

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** Contents within frame, not part of the original text, are added for reference purpose only.

legal procedures and the right to a fair trial. The issue of whether a relief to a lawsuit should be sought in accordance with the ordinary litigation proceedings or in accordance with the administrative litigations is a matter to be formulated by the legislative authorities taking into account the nature of the lawsuit and the functions of the existing litigation system. Article 87 of the Act Governing the Punishment for Violation of Road Traffic Regulations stipulates that if the offender is dissatisfied with the punishment imposed by the competent authority for traffic violations, the offender may raise an objection to the competent district court, and may appeal the ruling rendered by the district court to the High Court in the event that the offender is dissatisfied with the ruling; however, the offender may not further appeal to the Supreme Court. This procedure not only gives the litigant an opportunity to raise objection and provide evidence, but also is in compliance with due process of law and is therefore not in conflict with the intent of Article 16 of the Constitution ensuring the people's right of instituting legal proceedings.

權衡酌訴訟案件之性質及既有訴訟制度之功能等而為設計。道路交通管理處罰條例第八十七條規定，受處分人因交通違規事件，不服主管機關所為之處罰，得向管轄地方法院聲明異議；不服地方法院對聲明異議所為之裁定，得為抗告，但不得再抗告。此項程序，既已給予當事人申辯及提出證據之機會，符合正當法律程序，與憲法第十六條保障人民訴訟權之意旨尚無牴觸。

REASONING: Article 16 of the Constitution refers to the right of the people to request for relief from a court of law in the event that their rights are harmed and to the court's obligation to try the case in accordance with the law. This judicial beneficiary right not only, as a matter of formality, protects the right of the people to assert their rights in a court of law, but also, as a practical matter, ensures that the individual's rights are indeed being effectively protected. The methods of judicial relief include having an ordinary court of law render judgment on civil matters, criminal matters or administrative disputes, or, in addition to the ordinary courts of law, setting up a separate administrative court to deal with administrative disputes. Irrespective of which method is being adopted, their rights do not vary in that the people have the right to request for relief from a court of law in the event that their rights are harmed by reason of unlawful administrative acts. With respect to the allocation by the legislative authorities of administrative disputes of a special nature to which type of court for determination, and the

解釋理由書：憲法第十六條保障人民訴訟權，係指人民於其權利遭受侵害時，有請求法院救濟之權利，法院亦有依法審判之義務而言。此種司法上受益權，不僅形式上應保障個人得向法院主張其權利，且實質上亦須使個人之權利獲得確實有效之保護。司法救濟之方式，有不論民事、刑事或行政訴訟之裁判，均由普通法院審理；有於普通法院外，另設行政法院審理行政爭訟事件，我國即從後者。然無論採何種方式，人民於其權利因違法行政處分而遭受侵害時，得向法院請求救濟，則無不同。至立法機關將性質特殊之行政爭訟事件劃歸何種法院審理、適用何種司法程序，則屬立法者之權限，應由立法者衡酌權利之具體內涵、訴訟案件之性質及既有訴訟制度之功能等因素，以法律妥為合理之規定。

applicable judicial procedures, such matters fall within the discretion of the legislators and should be determined by the legislators taking into account factors such as the substantive content of the right in question, the nature of the dispute and the function of the existing litigation system, and enact reasonable rules accordingly.

The types of punishment enumerated in the Act Governing the Punishment for Violation of Road Traffic Regulations include fines, suspension of driver's license and confiscation of license plates. These are administrative penalties imposed by the administrative authorities for behaviors that violate traffic regulations. Article 87 of the Act Governing the Punishment for Violation of Road Traffic Regulations provides that "where the offender is not satisfied with the punishment imposed by the competent authorities in accordance with Article 8, the offender may, within fifteen days from the day next to the day of receipt of the determination, raise his/her objections to the competent district court;" "a court may render a rul-

道路交通管理處罰條例中所規定之處罰計有罰鍰、吊扣駕駛執照及汽車牌照等，均係行政機關對違反秩序行為之裁罰性行政處分。道路交通管理處罰條例第八十七條規定：「受處分人，不服第八條主管機關所為之處罰，得於接到裁決之翌日起十五日內，向管轄地方法院聲明異議」；「法院受理前項異議，以裁定為之」；「不服第二項之裁定，得為抗告。但不得再抗告」。是受處分人因交通事件對行政機關處罰而不服者，應由普通法院之交通法庭審理，而非如一般行政爭訟事件循訴願、再訴願及行政訴訟程序，請求救濟。此係立法機關基於行政處分而受影響之權益性質、事件發生之頻率及其終局裁判之急迫性以及受理爭訟案件機關之負荷能力等因素之考量，進而兼顧案件之特性及

ing when dealing with the aforesaid objection,” and “in the event that the offender is not satisfied with the ruling rendered in accordance with paragraph 2, the offender may appeal, however, the offender may not appeal against the ruling on appeal.” Therefore, the offender, who does not accept the punishment imposed by the administrative authorities for traffic violations, should be tried by the traffic court of an ordinary court of law and should not request for relief in the same way as the ordinary administrative disputes which follow the procedure of administrative appeal, re-appeal and administrative litigation. Such is formulated by the legislative authorities taking into account factors such as the nature of the right being impacted by the administrative punishment, the frequency of the events occurring, the urgency for final and binding judgments, and the capacity of the authorities dealing with the dispute, and also having regard to the characteristics of the dispute and the functions of the existing litigation system. The aforesaid legal provision not only provides the litigant the opportunity to raise objections and to offer evidence, but

既有訴訟制度之功能而為設計。上開法條，既給予當事人申辯及提出證據之機會，並由憲法第八十條所規定之法官斟酌事證而為公平之裁判，顯已符合正當法律程序，依本理由書首段所揭示之法理，與憲法第十六條保障人民訴訟權之意旨尚無牴觸。

also provides a fair trial stipulated in Article 80 of the Constitution which requires judges to take into account the evidence and render fair judgment for the dispute in question accordingly. This is evidently in compliance with the due process of law. As is disclosed in the jurisprudence shown in the first paragraph of this reasoning, it is not in conflict with the intent of Article 16 of the Constitution ensuring the people's right of instituting legal proceedings.

Justice Sen-Yen Sun filed concurring opinion.

本號解釋孫大法官森焱提出協同意見書。